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Civil Action No. 84-3040 Defendant's Proposed Findings of Fact

United States District Court for the District of Columbia

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11/3/89

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANN B. HOPKINS,

Plaintiff.

vs.

PRICE WATERHOUSE,

Defendant.Civil Action No. 84-3040
(GAG)

DEF Defendant's

PROPOSED FINDINGS OF FACT

1. Price Waterhouse is a nationwide professional partnership that specializes in providing auditing, tax and management consulting services primarily to private corporations and government agencies. 618 F. Supp. 1109 at 1111.

2. At the time this action was filed, Price Waterhouse had 662 partners in 90 offices throughout the United States. Id.

3. Despite its size and geographic dispersal, Price Waterhouse has consistently sought to maintain the traditional characteristics of a professional partnership both in its management and partner selection practices. Id.

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4. The Price Waterhouse partnership admissions process takes place annually and involves the collection of written and oral recommendations and evaluations by partners on all candidates about whom individual partners may have information. Id. at 1111-12.

5. The partnership recommendations and evaluations are reviewed by a Price Waterhouse Admissions Committee that makes recommendations to the Price Waterhouse Policy Board. The Policy Board determines whether to propose a candidate for partner to the partnership, to deny partnership, or to defer consideration of a candidate ("hold") to a subsequent year. Id. at 1112.

6. Price Waterhouse has consistently placed a high premium on a partnership candidate's ability to deal with subordinates and peers on an interpersonal basis and to promote cordial relations within a firm which is necessarily dependent on team effort. Id. at 1116.

7. Interpersonal skills of prospective partners are properly an important part of Price Waterhouse's partnership evaluation criteria. Inability to get along with staff or peers is a legitimate, nondiscriminatory reason for refusing to admit a candidate to partnership. Id. at 1114.

8. Price Waterhouse partnership candidates are regularly "held" because of concerns about their interpersonal skills. Id. at 1116.

9. Plaintiff was a candidate for partner during the 1982-83 Price Waterhouse partnership selection process. Id. at 1112.

10. The comments by partners on plaintiff Ann Hopkins during the 1982-83 partnership selection process indicated that plaintiff had shortcomings in her interpersonal skills. Id. at 1113. Specifically, plaintiff had considerable problems in her relationships with staff and peers. Id. at 1120.

11. Even supporters of the plaintiff viewed her style as offensive and detrimental to her effectiveness as a manager. Id.

12. Staff members who testified on the plaintiff's behalf indicated that it required diplomacy, patience and guts to work with plaintiff. Id. at 1114.

13. Supporters and opponents of plaintiff's candidacy indicated that she was sometimes overly aggressive, unduly harsh, difficult to work with and impatient with staff. Id. at 1113.

14. Even plaintiff agreed with many of the criticisms about her interpersonal skills. Id. at 1114.

15. Plaintiff received more "no" votes than all but two of the 88 candidates in 1982. These "no" votes and negative comments placed plaintiff toward the bottom of the candidate pool. Id. at 1116.

16. The firm's practice of giving "no" votes great weight treated male and female candidates in the same way. Id. at 1116.

17. The complaints about plaintiff's interpersonal skills were not fabricated as a pretext for discrimination. Id. at 1114.

18. Plaintiff's conduct provided ample justification for the complaints that formed the basis for Price Waterhouse's decision. Id.

19. The Hopkins candidacy was originally reported by the Admissions Committee to the Policy Board as a "no" recommendation. Connor Dep. at 29, 43.

20. The record before the Admissions Committee and Policy Board justified a "no" decision on partnership for plaintiff Hopkins, but the Policy Board, at the urging of one

partner, voted for a "hold" in order to give plaintiff an opportunity to overcome the personality problems that were an obstacle to her admission to partnership. Id. at 30, 43.

21. The Firm's Managing Partner and one of plaintiff's principal proponents within the Price Waterhouse partnership did not believe that a "yes" decision could possibly be reached on the Hopkins candidacy during the 1982-83 partnership process. Id.

22. A "hold" decision is not a rejection of a candidate's bid to become a partner in Price Waterhouse and a large percentage of "holds" eventually are admitted to the partnership. Id. at 54.

23. Once a partner is admitted to Price Waterhouse it takes a 75% vote of the partners to remove that individual from the partnership. Accordingly, Price Waterhouse regards admission to partnership as similar to the bestowing of "tenure." Tr. at 346-47.

24. None of the members of the Admissions Committee favored the admission to partnership of plaintiff Hopkins. The choices debated in the Committee were between a "no" and a "hold" recommendation. Tr. at 267 & Def. Ex. 35.

25. During the three years 1982 through 1984, Price Waterhouse elected 135 new partners through its partnership selection process. Def. Ex. 77. Only two of these 135 successful candidates received material criticism of their interpersonal skills. 618 F. Supp. at 1115 & n.6. The circumstances of those two candidates were fundamentally different from those presented by the plaintiff. Peculiar circumstances justified their admission to partnership despite their problems. Id.

26. The record before this Court shows that it would have been highly unusual for the Policy Board to recommend admission of a candidate who had "considerable problems dealing with staff and peers." 618 F. Supp. at 1120. Even plaintiff, after reviewing the records of almost 135 candidates proposed during the three year period 1982-84, could point to only two candidates admitted in the face of material criticism of their interpersonal skills. Id. at 1115.

27. The contemporaneous records generated by the partnership selection process demonstrate that Price Waterhouse had legitimate, nondiscriminatory reasons for distinguishing between the plaintiff and the two male partners with whom she compared herself. Id.

28. The plaintiff did not demonstrate disparate treatment between herself and the male candidates with whom she compared herself. Id. at 1115 n.6.

29. The Price Waterhouse decision under review by this Court was not a rejection of Ann Hopkins' candidacy for partnership. It was not a final decision eliminating her opportunity to advance to partner. The decision under review here was a decision against denying her a partnership and to hold her candidacy for reconsideration during a subsequent year.

30. A preponderance of the evidence admitted at trial demonstrates that regardless of plaintiff's gender, because of the problems she had dealing with staff and peers, the most the plaintiff's record warranted in 1982 was a decision to defer her candidacy to permit further growth and re-evaluation. The decision to hold the Hopkins candidacy was logical, supported by ample evidence and, on scrutiny, a fair and reasonable course for the Price Waterhouse partnership to select at the time and on the record as it existed in 1982-83 irrespective of her sex.

31. More often than not candidates who were held were able to correct the deficiencies in their performance and were eventually admitted to the firm. In this context, a decision to defer a final and irreversible decision to reject or admit

is a rational, fair, and prudent manner in which to handle an otherwise qualified candidate with interpersonal skills problems.

32. Because plaintiff had considerable problems dealing with staff and peers, the preponderance of the evidence establishes that plaintiff Hopkins would not have made partner even if impermissible considerations had been absent from the decisionmaking process. Id. at 1120.

33. The decision not to repropose plaintiff for partner in 1983 was not tainted by any consideration of her sex. Id. at 1115.

DATED: November 3, 1989


Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Proposed Findings of Fact was served by hand delivery this 3rd day of November 1989 upon the following:

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